

Board of County Commissioners

Leon County, Florida

Policy No. 05-7

Title: Private Paved Road Repair Services Program

Date Adopted: April 25, 2006

Effective Date: April 25, 2006

Reference: None

Policy Superseded: Policy No. 05-07, adopted August 30, 2005

It shall be policy of the Board of County Commissioners of Leon County, Florida (hereinafter the "Board") that a revised Policy No. 05-07 is hereby adopted, to wit:

Article 1: Limited Scope; Whispering Pines East Pilot Program

- A. Until further Board action to the contrary, the scope and applicability of this Policy shall be limited to only those Private Paved Roads lying within the Whispering Pines East subdivision located in Section 33, Township 1 North, Range 2 West, in unincorporated Leon County.
- B. No later than 18 months after the adoption of this Policy, the County Administrator, or designee, shall present to the Board a review of the Program operation including, but not limited to, a summary of the Service Charge collection history and a recommendation of whether to expand or terminate the Program.
- C. This Policy shall provide the exclusive policy and procedure for providing Road Repair Services within the scope provided herein, and shall supersede any and all provisions of other Board policies to the extent that such other provisions may be inconsistent with this Policy.

Article 2: Authority, Intent, and Purpose

- A. The authority set forth herein is delegated to the County Administrator, or designee.
- B. The intent of this Policy, in accordance with the Board's findings and declarations set forth in Resolution R05-22, Repair Services for Private Paved Roads and Imposition of Service Charges, which is incorporated herein by this reference, is to allow for the provision of Road Repair Services by the County, its agents, and employees, in order to alleviate the problems currently existing on many of the County's Private Paved Roads regarding the ingress and egress of its emergency, utility, and other such public service vehicles, thereby protecting the health, safety, and welfare of the County's citizens.

- C. The purpose of this Policy is to establish a uniform and clear policy and procedure to insure proper accountability and legal consistency in the provision of the County's services for the repair of Private Paved Roads and in the collection of Services Charges from the participating Applicants requesting such services. Furthermore, these policies and procedures shall be followed, along with all applicable laws and professional ethics, in order to insure fair and equitable treatment to the County, the Applicants, and the general public.

Article 3: Definitions

- A. Agreement: the written agreement executed by an Applicant and recorded as a lien on the property of the Applicant adjoining, or adjacent to, the Private Paved Road, which authorizes the County, its agents, and employees, to provide Road Repair Services and which obligates the Applicant to pay annual Service Charges to the County.
- B. Applicant: an owner of property in the unincorporated area of the County, which property is accessible only from an adjoining or adjacent Private Paved Road, who submits an Application to the County requesting Road Repair Services.
- C. Application: the Applicant's written request for Road Repair Services, in such written form as shall be approved by the County.
- D. Board: the Leon County Board of County Commissioners.
- E. Clerk: the Leon County Clerk of Court, Finance Department.
- F. County: Leon County, Florida.
- G. Easement: the easement for ingress, egress, and maintenance over and across an adjoining or adjacent Private Paved Road, to which an Applicant is entitled by virtue of a recorded conveyance document or a statutory way of necessity
- H. Policy: the Private Paved Road Repair Services Program as adopted by the Board on August 30, 2005.
- I. Private Paved Road: a street, roadway, or other such right-of-way, located in the unincorporated area of the County, in which the County or public has no express ownership interest and which has not otherwise been dedicated to the public, and which currently has, or originally had at the time of its construction, a surface paved with asphalt or other such hard-surface material, and which will allow for a resurfacing project that will be permitted without the requirement of any additional drainage ditches, swales, or other such stormwater management facilities. For purposes of this Policy, the term "Private Paved Road" does not include a dirt road.
- J. Program: the Private Paved Road Repair Services Program.

- K. Public Works: the Leon County Public Works Department.
- L. Road Repair Services: services provided by the County, in accordance with, and to the extent provided by, this Policy and the Written Procedures, for the repair and resurfacing of the Easement of the Applicants over and across the Private Paved Road(s) adjoining, or adjacent to, the Applicants' property.
- M. Service Charge: the annual charge to each Applicant, submitted for payment and collection by the Clerk, for the Applicants' allocation of the Total Cost Estimate for the Road Repair Services.
- N. Total Cost Estimate: the County's estimation of the amount of costs to be incurred in completing the requested Road Repair Services.
- O. Written Procedures: the uniform and clear written procedures developed and maintained for implementation of the Board's directives in this Policy.

Article 4: Responsible Departments

- A. The County Administrator, or designee, shall be charged with the responsibility of developing and maintaining uniform and clear written procedures for the provision of Road Repair Services and for the imposition and collection of Service Charges in accordance with the Board's directives in this Policy.
- B. The Director of Public Works shall be charged with the responsibility of managing and implementing the provision of the Road Repair Services and the collection of Service Charges by the Clerk in accordance with the directives in this Policy and the Written Procedures;
- C. The County Attorney, or designee, shall be charged with the following responsibilities:
 - 1. preparing, reviewing, and approving the form of any and all legal documents necessary for the implementation of the directives in this Policy and the Written Procedures;
 - 2. providing legal advice, as necessary, in the development of the Written Procedures; and
 - 3. providing legal support, as necessary, in the enforcement and recovery of delinquent Service Charges.

Article 5: Directives for Implementation of Policy

A. Scope of Road Repair Services:

1. **Maximum Cost:** In the event the amount of the Total Cost Estimate exceeds One Hundred Twenty-Five Thousand Dollars (\$125,000) the Road Repair Services shall not be commenced, and the Applications for such Road Repair Services shall be terminated.
2. At the discretion of the Director of Public Works, the County may retain a contractor to provide and complete the Road Repair Services.
3. The Road Repair Services shall be limited to those activities allowed under the Division of Operations General Maintenance Permit including, but not limited to, the following:
 - a. major asphalt patching and repairs;
 - b. road base repairs;
 - c. asphalt resurfacing;
 - d. surface treatments;
 - e. cross drains
 - f. roadside ditch maintenance; and
 - g. road shoulder repairs as necessary to accomplish the resurfacing repairs.
4. The County shall assume no responsibility for the continued maintenance of the Private Paved Road(s) upon the completion of the Road Repair Services.

B. Application for Road Repair Services and Total Cost Estimate:

1. Any persons who own property in the unincorporated area of the County, which property is accessible only from an adjoining or adjacent Private Paved Road, may submit an Application to Public Works requesting Road Repair Services.
2. The Application shall be in a form approved by the County Attorney and shall include an acknowledgment that the Applicant is the owner of property adjoining, or adjacent to, the Private Paved Road(s) for which the Road Repair Services are requested, and that their property is accessible only from such adjoining or adjacent Private Paved Road(s).
3. Upon the receipt of Applications representing more than 50 percent of the lots or parcels adjoining, or adjacent to, the Private Paved Road(s) for which the Road Repair Services are being requested, Public Works shall be responsible for the preparation of a Total Cost Estimate for the requested Road Repair Services, which shall include, but not be limited to, the following:
 - a. permitting costs;
 - b. construction costs;
 - c. recording costs for recordation of Agreements and Satisfactions of Agreements;

- d. administration fee of ten percent (10%) to cover the County's costs incurred in administering the Program; and
- e. any other such anticipated costs arising from the Road Repair Services.

C. Agreement for Road Repair Services and Payment of Service Charges:

1. Before proceeding with the Road Repair Services, each Applicant shall execute and deliver to Public Works an Agreement for Road Repair Services and Payment of Service Charges, in a form to be developed by the County Attorney to include, but not be limited to, the following:
 - a. an acknowledgment that the Applicant is the owner of property adjoining, or adjacent to, the Private Paved Road(s) for which the Road Repair Services are requested, and that their property is accessible only from such adjoining or adjacent Private Paved Road(s);
 - b. the Applicant's authorization for the County, its employees, and agents to provide such Road Repair Services to the Applicant's Easement over and across the Private Paved Road(s);
 - c. the Applicant's obligation to pay their allocation of the Total Cost Estimate in five equal Service Charges to be billed and collected annually by the Clerk;
 - d. the Applicant's obligation to pay an annual finance charge, at the going rate in an amount not to exceed the maximum amount allowed by law, on any outstanding balance of service charges remaining to be paid;
 - e. the Applicant's acknowledgment that the Agreement shall be recorded as a lien against their property adjoining, or adjacent to, the Private Paved Road(s), and that they will remain personally liable for the payment of any and all Service Charges;
 - f. the Applicant's obligation to pay any and all attorney's fees and costs incurred by the County in any action to collect delinquent Service Charges; and
 - g. the Applicant's acknowledgment that the County neither offers nor implies any warranty for the Road Repair Services.
2. Upon the receipt by Public Works of Agreements executed by Applicants representing more than 50 percent of the lots or parcels adjoining, or adjacent to, the Private Paved Road(s) for which the Road Repair Services are being requested, the Agreements shall be delivered to the County Attorney and held in escrow until the completion of the Road Repair Services.

3. The Director of Public Works is authorized to proceed with the Road Repair Services upon the confirmation of the following:
 - a. that the County Attorney has received in escrow the requisite number of duly executed Agreements; and
 - b. that the requested Road Repair Services are fully appropriated by the Board.

D. Completion of Road Repair Services and Collection of Service Charges by Clerk:

1. Upon completion of the Road Repair Services, the Agreements shall be recorded in the official records of Leon County and a copy of each such recorded Agreement shall be provided to each of the Applicants referenced therein.
2. Public Works shall forward to the Clerk any and all information necessary for the Clerk to bill and collect the annual Service Charges in accordance with a separate agreement between the Board and the Clerk.
3. The County Administrator may, in the best interest of the County, designate an individual or entity, other than the Clerk, as the Board's collection agent for the Program.
4. In the event a Service Charge remains unpaid for more than ninety (90) days after its due date, the Service Charge shall be deemed delinquent and the County Attorney shall thereafter be authorized to commence any legal action available by law for the recovery of the delinquent Service Charge.